

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

JOSEPH LICHTENSTEIN,

Plaintiff,

-against-

MASSACHUSETTS MUTUAL LIFE
INSURANCE CO.; MS. SUSAN RENTZ;
and, MS. SHEILA SACCO,

Defendants.

ORDER
07 CV 1680 (DLI) (LB)

-----X
BLOOM, United States Magistrate Judge:

By letter dated March 3, 2010, defendants inform the Court that plaintiff has failed to execute and return releases for medical records, social security administration records, tax records, and employment records. (Document 55.) Plaintiff has also failed to respond to defendants' interrogatories, or to a notice for his deposition, which is scheduled to be held on March 10, 2010. Defendants request that the Court dismiss plaintiff's complaint pursuant to Fed. R. Civ. P. 16(f) and 37(b)(2)(A)(v). (*Id.*) Defendants' request is denied without prejudice.

Defendants first served plaintiff with the releases for records and with interrogatories on June 5, 2009. On July 13, 2009, the Court ordered plaintiff to sign and return his medical releases within ten days or his case would be dismissed. (Document 43.) However, plaintiff appealed to the Second Circuit Court of Appeals, and the Court, in an abundance of caution, stayed discovery while plaintiff's interlocutory appeal was pending. (Document 52.) On January 13, 2010, I lifted the stay following dismissal of plaintiff's appeal. (Document 54.) Defendants promptly reminded plaintiff of his obligation to provide the necessary releases and to respond to their interrogatories. However, plaintiff has failed to respond.

Plaintiff is hereby ordered to respond to defendants' interrogatories, sign *all* of the above-mentioned releases, and return his responses and the executed releases to defendants' counsel by March 23, 2010. **If plaintiff fails to comply with this Order by March 23, 2010, the Court will recommend that his case should be dismissed pursuant to Fed. R. Civ. P. 37(b)(2)(A)(v).** See Valentine v. Museum of Modern Art, 29 F.3d 47, 49 (2d Cir. 1994)(The sanction of dismissal "may be imposed even against a plaintiff who is proceeding *pro se*, so long as warning has been given that noncompliance can result in dismissal."). Assuming that plaintiff timely complies and returns the responses and releases, defendants shall notice plaintiff's deposition and the Court will order plaintiff to appear for his deposition on the selected date.

SO ORDERED.

/Signed by Judge Lois Bloom/

LOIS BLOOM

United States Magistrate Judge

Dated: March 8, 2010
Brooklyn, New York